

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35322

STATE OF IDAHO,)	2009 Unpublished Opinion No. 448
)	
Plaintiff-Respondent,)	Filed: May 5, 2009
)	
v.)	Stephen W. Kenyon, Clerk
)	
LISA C. ORTIZ,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Juneal C. Kerrick, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Erik R. Lehtinen, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge, PERRY, Judge
and GRATTON, Judge

PER CURIAM

Lisa C. Ortiz pled guilty to aggravated battery. I.C. §§ 18-903(a), 18-907(b). The district court sentenced Ortiz to a unified term of ten years, with a minimum period of confinement of two years. Ortiz filed an I.C.R. 35 motion, which the district court denied. Ortiz appeals.

A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). An appeal from the denial of a Rule 35 motion cannot be used as a vehicle to review the underlying sentence absent

the presentation of new information. *Id.* Because no new information in support of Ortiz's Rule 35 motion was presented, review of the sentence by this Court is precluded. For the foregoing reasons, the district court's order denying Ortiz's Rule 35 motion is affirmed.